

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

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CHAPTER 382

HOUSE BILL 2592

AN ACT

AMENDING SECTIONS 15-342 AND 15-2011, ARIZONA REVISED STATUTES; AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 272, SECTION 4 AND CHAPTER 293, SECTION 1; REPEALING SECTION 15-2041, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 287, SECTION 3; BLENDING MULTIPLE ENACTMENTS; RELATING TO SCHOOL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-342, Arizona Revised Statutes, is amended to
3 read:

4 15-342. Discretionary powers

5 The governing board may:

6 1. Expel pupils for misconduct.

7 2. Exclude from grades one through eight children under six years of
8 age.

9 3. Make such separation of groups of pupils as it deems advisable.

10 4. Maintain such special schools during vacation as deemed necessary
11 for the benefit of the pupils of the school district.

12 5. Permit a superintendent or principal or representatives of the
13 superintendent or principal to travel for a school purpose, as determined by
14 a majority vote of the board. The board may permit members and members-elect
15 of the board to travel within or without the school district for a school
16 purpose and receive reimbursement. Any expenditure for travel and
17 subsistence pursuant to this paragraph shall be as provided in title 38,
18 chapter 4, article 2. The designated post of duty referred to in section
19 38-621 shall be construed, for school district governing board members, to be
20 the member's actual place of residence, as opposed to the school district
21 office or the school district boundaries. Such expenditures shall be a
22 charge against the budgeted school district funds. The governing board of a
23 school district shall prescribe procedures and amounts for reimbursement of
24 lodging and subsistence expenses. Reimbursement amounts shall not exceed the
25 maximum amounts established pursuant to section 38-624, subsection C.

26 6. Construct or provide in rural districts housing facilities for
27 teachers and other school employees which the board determines are necessary
28 for the operation of the school.

29 7. Sell or lease to the state, a county, a city or a tribal government
30 agency, any school property required for a public purpose, provided the sale
31 or lease of the property will not affect the normal operations of a school
32 within the school district.

33 8. Annually budget and expend funds for membership in an association
34 of school districts within this state.

35 9. Enter into leases or lease-purchase agreements for school buildings
36 or grounds, or both, as lessor or as lessee, for periods of less than five
37 years subject to voter approval for construction of school buildings as
38 prescribed in section 15-341, subsection A, paragraph 8.

39 10. Subject to chapter 16 of this title, sell school sites or enter
40 into leases or lease-purchase agreements for school buildings and grounds, as
41 lessor or as lessee, for a period of five years or more, but not to exceed
42 ninety-nine years, if authorized by a vote of the school district electors in
43 an election called by the governing board as provided in section 15-491,
44 except that authorization by the school district electors in an election is
45 not required if one of the following requirements is met:

1 (a) The market value of the school property is less than fifty
2 thousand dollars.

3 (b) The buildings and sites are completely funded with monies
4 distributed by the school facilities board.

5 (c) The transaction involves the sale of improved or unimproved
6 property pursuant to an agreement with the school facilities board in which
7 the school district agrees to sell the improved or unimproved property and
8 transfer the proceeds of the sale to the school facilities board in exchange
9 for monies from the school facilities board for the acquisition of a more
10 suitable school site. For a sale of property acquired by a school district
11 prior to July 9, 1998, a school district shall transfer to the school
12 facilities board that portion of the proceeds that equals the cost of the
13 acquisition of a more suitable school site. If there are any remaining
14 proceeds after the transfer of monies to the school facilities board, a
15 school district shall only use those remaining proceeds for future land
16 purchases approved by the school facilities board, or for capital
17 improvements not funded by the school facilities board for any existing or
18 future facility.

19 (d) The transaction involves the sale of improved or unimproved
20 property pursuant to a formally adopted plan and the school district uses the
21 proceeds of this sale to purchase other property that will be used for
22 similar purposes as the property that was originally sold, provided that the
23 sale proceeds of the improved or unimproved property are used within two
24 years after the date of the original sale to purchase the replacement
25 property. If the sale proceeds of the improved or unimproved property are
26 not used within two years after the date of the original sale to purchase
27 replacement property, the sale proceeds shall be used towards payment of any
28 outstanding bonded indebtedness. If any sale proceeds remain after paying
29 for outstanding bonded indebtedness, or if the district has no outstanding
30 bonded indebtedness, sale proceeds shall be used to reduce the district's
31 primary tax levy. A school district shall not use the provisions of this
32 subdivision unless all of the following conditions exist:

33 (i) The school district is the sole owner of the improved or
34 unimproved property that the school district intends to sell.

35 (ii) The school district did not purchase the improved or unimproved
36 property that the school district intends to sell with monies that were
37 distributed pursuant to chapter 16 of this title.

38 (iii) The transaction does not violate section 15-341, subsection G.

39 11. Review the decision of a teacher to promote a pupil to a grade or
40 retain a pupil in a grade in a common school or to pass or fail a pupil in a
41 course in high school. The pupil has the burden of proof to overturn the
42 decision of a teacher to promote, retain, pass or fail the pupil. In order
43 to sustain the burden of proof, the pupil shall demonstrate to the governing
44 board that the pupil has mastered the academic standards adopted by the state
45 board of education pursuant to sections 15-701 and 15-701.01. If the

1 governing board overturns the decision of a teacher pursuant to this
2 paragraph, the governing board shall adopt a written finding that the pupil
3 has mastered the academic standards. Notwithstanding title 38, chapter 3,
4 article 3.1, the governing board shall review the decision of a teacher to
5 promote a pupil to a grade or retain a pupil in a grade in a common school or
6 to pass or fail a pupil in a course in high school in executive session
7 unless a parent or legal guardian of the pupil or the pupil, if emancipated,
8 disagrees that the review should be conducted in executive session and then
9 the review shall be conducted in an open meeting. If the review is conducted
10 in executive session, the board shall notify the teacher of the date, time
11 and place of the review and shall allow the teacher to be present at the
12 review. If the teacher is not present at the review, the board shall consult
13 with the teacher before making its decision. Any request, including the
14 written request as provided in section 15-341, the written evidence presented
15 at the review and the written record of the review, including the decision of
16 the governing board to accept or reject the teacher's decision, shall be
17 retained by the governing board as part of its permanent records.

18 12. Provide transportation or site transportation loading and unloading
19 areas for any child or children if deemed for the best interest of the
20 district, whether within or without the district, county or state.

21 13. Enter into intergovernmental agreements and contracts with school
22 districts or other governing bodies as provided in section 11-952.

23 14. Include in the curricula which it prescribes for high schools in
24 the school district career and technical education, vocational education and
25 technology education programs and career and technical, vocational and
26 technology program improvement services for the high schools, subject to
27 approval by the state board of education. The governing board may contract
28 for the provision of career and technical, vocational and technology
29 education as provided in section 15-789.

30 15. Suspend a teacher or administrator from the teacher's or
31 administrator's duties without pay for a period of time of not to exceed ten
32 school days, if the board determines that suspension is warranted pursuant to
33 section 15-341, subsection A, paragraphs 23 and 24.

34 16. Dedicate school property within an incorporated city or town to
35 such city or town or within a county to that county for use as a public
36 right-of-way if both of the following apply:

37 (a) Pursuant to an ordinance adopted by such city, town or county,
38 there will be conferred upon the school district privileges and benefits
39 which may include benefits related to zoning.

40 (b) The dedication will not affect the normal operation of any school
41 within the district.

42 17. Enter into option agreements for the purchase of school sites.

43 18. Donate surplus or outdated learning materials to nonprofit
44 community organizations where the governing board determines that the

1 anticipated cost of selling the learning materials equals or exceeds the
2 estimated market value of the materials.

3 19. Prescribe policies for the assessment of reasonable fees for
4 students to use district-provided parking facilities. The fees are to be
5 applied by the district solely against costs incurred in operating or
6 securing the parking facilities. Any policy adopted by the governing board
7 pursuant to this paragraph shall include a fee waiver provision in
8 appropriate cases of need or economic hardship.

9 20. Establish alternative educational programs that are consistent with
10 the laws of this state to educate pupils, including pupils who have been
11 reassigned pursuant to section 15-841, subsection E or F.

12 21. Require a period of silence to be observed at the commencement of
13 the first class of the day in the schools. If a governing board chooses to
14 require a period of silence to be observed, the teacher in charge of the room
15 in which the first class is held shall announce that a period of silence not
16 to exceed one minute in duration will be observed for meditation, and during
17 that time no activities shall take place and silence shall be maintained.

18 22. Require students to wear uniforms.

19 23. Exchange unimproved property or improved property, including school
20 sites, where the governing board determines that the improved property is
21 unnecessary for the continued operation of the school district without
22 requesting authorization by a vote of the school district electors if the
23 governing board determines that the exchange is necessary to protect the
24 health, safety or welfare of pupils or when the governing board determines
25 that the exchange is based on sound business principles for either:

26 (a) Unimproved or improved property of equal or greater value.

27 (b) Unimproved property that the owner contracts to improve if the
28 value of the property ultimately received by the school district is of equal
29 or greater value.

30 24. For common and high school pupils, assess reasonable fees for
31 optional extracurricular activities and programs conducted when the common or
32 high school is not in session, except that no fees shall be charged for
33 pupils' access to or use of computers or related materials. For high school
34 pupils, the governing board may assess reasonable fees for fine arts and
35 vocational education courses and for optional services, equipment and
36 materials offered to the pupils beyond those required to successfully
37 complete the basic requirements of any other course, except that no fees
38 shall be charged for pupils' access to or use of computers or related
39 materials. Fees assessed pursuant to this paragraph shall be adopted at a
40 public meeting after notice has been given to all parents of pupils enrolled
41 at schools in the district and shall not exceed the actual costs of the
42 activities, programs, services, equipment or materials. The governing board
43 shall authorize principals to waive the assessment of all or part of a fee
44 assessed pursuant to this paragraph if it creates an economic hardship for a
45 pupil. For the purposes of this paragraph, "extracurricular activity" means

1 any optional, noncredit, educational or recreational activity which
2 supplements the education program of the school, whether offered before,
3 during or after regular school hours.

4 25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10,
5 construct school buildings and purchase or lease school sites, without a vote
6 of the school district electors, if the buildings and sites are totally
7 funded from one or more of the following:

8 (a) Monies in the unrestricted capital outlay fund, except that the
9 estimated cost shall not exceed two hundred fifty thousand dollars for a
10 district that utilizes the provisions of section 15-949.

11 (b) Monies distributed from the school facilities board established by
12 section 15-2001.

13 (c) Monies specifically donated for the purpose of constructing school
14 buildings.

15 Nothing in this paragraph shall be construed to eliminate the requirement for
16 an election to raise revenues for a capital outlay override pursuant to
17 section 15-481 or a bond election pursuant to section 15-491.

18 26. Conduct a background investigation that includes a fingerprint
19 check conducted pursuant to section 41-1750, subsection G for certificated
20 personnel and personnel who are not paid employees of the school district, as
21 a condition of employment. A school district may release the results of a
22 background check to another school district for employment purposes. The
23 school district may charge the costs of fingerprint checks to its
24 fingerprinted employee, except that the school district may not charge the
25 costs of fingerprint checks for personnel who are not paid employees of the
26 school district.

27 27. Sell advertising space on the exterior of school buses as follows:

28 (a) Advertisements shall be age appropriate and not contain promotion
29 of any substance that is illegal for minors such as alcohol, tobacco and
30 drugs or gambling. Advertisements shall comply with the state sex education
31 policy of abstinence.

32 (b) Advertising approved by the governing board may appear only on the
33 sides of the bus in the following areas:

34 (i) The signs shall be below the seat level rub rail and not extend
35 above the bottom of the side windows.

36 (ii) The signs shall be at least three inches from any required
37 lettering, lamp, wheel well or reflector behind the service door or stop
38 signal arm.

39 (iii) The signs shall not extend from the body of the bus so as to
40 allow a handhold or present a danger to pedestrians.

41 (iv) The signs shall not interfere with the operation of any door or
42 window.

43 (v) The signs shall not be placed on any emergency doors.

44 (c) Establish a school bus advertisement fund that is comprised of
45 revenues from the sale of advertising space on school buses. The monies in a

1 school bus advertisement fund are not subject to reversion and shall be used
2 for the following purposes:

3 (i) To comply with the energy conservation measures prescribed in
4 section 15-349 in school districts that are in area A as defined in section
5 49-541, and any remaining monies shall be used to purchase alternative fuel
6 support vehicles and any other pupil related costs as determined by the
7 governing board.

8 (ii) For any pupil related costs as determined by the governing board
9 in school districts not subject to the provisions of item (i) of this
10 subdivision.

11 28. Assess reasonable damage deposits to pupils in grades seven through
12 twelve for the use of textbooks, musical instruments, band uniforms or other
13 equipment required for academic courses. The governing board shall adopt
14 policies on any damage deposits assessed pursuant to this paragraph at a
15 public meeting called for this purpose after providing notice to all parents
16 of pupils in grades seven through twelve in the school district. Principals
17 of individual schools within the district may waive the damage deposit
18 requirement for any textbook or other item if the payment of the damage
19 deposit would create an economic hardship for the pupil. The school district
20 shall return the full amount of the damage deposit for any textbook or other
21 item if the pupil returns the textbook or other item in reasonably good
22 condition within the time period prescribed by the governing board. For the
23 purposes of this paragraph, "in reasonably good condition" means the textbook
24 or other item is in the same or a similar condition as it was when the pupil
25 received it, plus ordinary wear and tear.

26 29. Notwithstanding section 15-1105, expend surplus monies in the civic
27 center school fund for maintenance and operations or unrestricted capital
28 outlay, if sufficient monies are available in the fund after meeting the
29 needs of programs established pursuant to section 15-1105.

30 30. Notwithstanding section 15-1143, expend surplus monies in the
31 community school program fund for maintenance and operations or unrestricted
32 capital outlay, if sufficient monies are available in the fund after meeting
33 the needs of programs established pursuant to section 15-1142.

34 31. Adopt guidelines for standardization of the format of the school
35 report cards required by section 15-746 for schools within the district.

36 32. Adopt policies that require parental notification when a law
37 enforcement officer interviews a pupil on school grounds. Policies adopted
38 pursuant to this paragraph shall not impede a peace officer from the
39 performance of the peace officer's duties. If the school district governing
40 board adopts a policy that requires parental notification:

41 (a) The policy may provide reasonable exceptions to the parental
42 notification requirement.

43 (b) The policy shall set forth whether and under what circumstances a
44 parent may be present when a law enforcement officer interviews the pupil,
45 including reasonable exceptions to the circumstances under which a parent may

1 be present when a law enforcement officer interviews the pupil, and shall
2 specify a reasonable maximum time after a parent is notified that an
3 interview of a pupil by a law enforcement officer may be delayed to allow the
4 parent to be present.

5 33. ENTER INTO VOLUNTARY PARTNERSHIPS WITH ANY PARTY TO FINANCE WITH
6 FUNDS OTHER THAN SCHOOL DISTRICT FUNDS AND COOPERATIVELY DESIGN SCHOOL
7 FACILITIES THAT COMPLY WITH THE ADEQUACY STANDARDS PRESCRIBED IN SECTION
8 15-2011 AND THE SQUARE FOOTAGE PER PUPIL REQUIREMENTS PURSUANT TO SECTION
9 15-2041, SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b). THE DESIGN PLANS AND
10 LOCATION OF ANY SUCH SCHOOL FACILITY SHALL BE SUBMITTED TO THE SCHOOL
11 FACILITIES BOARD FOR APPROVAL PURSUANT TO SECTION 15-2041, SUBSECTION O. IF
12 THE SCHOOL FACILITIES BOARD APPROVES THE DESIGN PLANS AND LOCATION OF ANY
13 SUCH SCHOOL FACILITY, THE PARTY IN PARTNERSHIP WITH THE SCHOOL DISTRICT MAY
14 CAUSE TO BE CONSTRUCTED AND THE DISTRICT MAY BEGIN OPERATING THE SCHOOL
15 FACILITY BEFORE MONIES ARE DISTRIBUTED FROM THE SCHOOL FACILITIES BOARD
16 PURSUANT TO SECTION 15-2041. MONIES DISTRIBUTED FROM THE NEW SCHOOL
17 FACILITIES FUND TO A SCHOOL DISTRICT IN A PARTNERSHIP WITH ANOTHER PARTY TO
18 FINANCE AND DESIGN THE SCHOOL FACILITY SHALL BE PAID TO THE SCHOOL DISTRICT
19 PURSUANT TO SECTION 15-2041. THE SCHOOL DISTRICT SHALL REIMBURSE THE PARTY
20 IN PARTNERSHIP WITH THE SCHOOL DISTRICT FROM THE MONIES PAID TO THE SCHOOL
21 DISTRICT PURSUANT TO SECTION 15-2041, IN ACCORDANCE WITH THE VOLUNTARY
22 PARTNERSHIP AGREEMENT. BEFORE THE SCHOOL FACILITIES BOARD DISTRIBUTES ANY
23 MONIES PURSUANT TO THIS SUBSECTION, THE SCHOOL DISTRICT SHALL DEMONSTRATE TO
24 THE SCHOOL FACILITIES BOARD THAT THE FACILITIES TO BE FUNDED PURSUANT TO
25 SECTION 15-2041, SUBSECTION O MEET THE MINIMUM ADEQUACY STANDARDS PRESCRIBED
26 IN SECTION 15-2011. IF THE COST TO CONSTRUCT THE SCHOOL FACILITY EXCEEDS THE
27 AMOUNT THAT THE SCHOOL DISTRICT RECEIVES FROM THE NEW SCHOOL FACILITIES FUND,
28 THE PARTNERSHIP AGREEMENT BETWEEN THE SCHOOL DISTRICT AND THE OTHER PARTY
29 SHALL SPECIFY THAT, EXCEPT AS OTHERWISE PROVIDED BY THE OTHER PARTY, ANY SUCH
30 EXCESS COSTS SHALL BE THE RESPONSIBILITY OF THE SCHOOL DISTRICT. THE SCHOOL
31 DISTRICT GOVERNING BOARD SHALL ADOPT A RESOLUTION IN A PUBLIC MEETING THAT
32 ANALYSIS HAS BEEN CONDUCTED ON THE PROSPECTIVE EFFECTS OF THE DECISION TO
33 OPERATE A NEW SCHOOL WITH EXISTING MONIES FROM THE SCHOOL DISTRICT'S
34 MAINTENANCE AND OPERATIONS BUDGET AND HOW THIS DECISION MAY AFFECT OTHER
35 SCHOOLS IN THE SCHOOL DISTRICT. IF A SCHOOL DISTRICT ACQUIRES LAND BY
36 DONATION AT AN APPROPRIATE SCHOOL SITE APPROVED BY THE SCHOOL FACILITIES
37 BOARD AND A SCHOOL FACILITY IS FINANCED AND BUILT ON THE LAND PURSUANT TO
38 THIS PARAGRAPH, THE SCHOOL FACILITIES BOARD SHALL DISTRIBUTE AN AMOUNT EQUAL
39 TO TWENTY PER CENT OF THE FAIR MARKET VALUE OF THE LAND THAT CAN BE USED FOR
40 ACADEMIC PURPOSES. THE SCHOOL DISTRICT SHALL PLACE THE MONIES IN THE
41 UNRESTRICTED CAPITAL OUTLAY FUND AND INCREASE THE UNRESTRICTED CAPITAL BUDGET
42 LIMIT BY THE AMOUNT OF THE MONIES PLACED IN THE FUND. MONIES DISTRIBUTED
43 UNDER THIS PARAGRAPH SHALL BE DISTRIBUTED FROM THE NEW SCHOOL FACILITIES FUND
44 PURSUANT TO SECTION 15-2041. IF A SCHOOL DISTRICT ACQUIRES LAND BY DONATION
45 AT AN APPROPRIATE SCHOOL SITE APPROVED BY THE SCHOOL FACILITIES BOARD AND A

1 SCHOOL FACILITY IS FINANCED AND BUILT ON THE LAND PURSUANT TO THIS PARAGRAPH,
2 THE SCHOOL DISTRICT SHALL NOT RECEIVE MONIES FROM THE SCHOOL FACILITIES BOARD
3 FOR THE DONATION OF REAL PROPERTY PURSUANT TO SECTION 15-2041, SUBSECTION F.
4 IT IS UNLAWFUL FOR:

5 (a) A COUNTY, CITY OR TOWN TO REQUIRE AS A CONDITION OF ANY LAND USE
6 APPROVAL THAT A LANDOWNER OR LANDOWNERS THAT ENTERED INTO A PARTNERSHIP
7 PURSUANT TO THIS PARAGRAPH PROVIDE ANY CONTRIBUTION, DONATION OR GIFT, OTHER
8 THAN A SITE DONATION, TO A SCHOOL DISTRICT. THIS SUBDIVISION ONLY APPLIES TO
9 THE PROPERTY IN THE VOLUNTARY PARTNERSHIP AGREEMENT PURSUANT TO THIS
10 PARAGRAPH.

11 (b) A COUNTY, CITY OR TOWN TO REQUIRE AS A CONDITION OF ANY LAND USE
12 APPROVAL THAT THE LANDOWNER OR LANDOWNERS LOCATED WITHIN THE GEOGRAPHIC
13 BOUNDARIES OF THE SCHOOL SUBJECT TO THE VOLUNTARY PARTNERSHIP PURSUANT TO
14 THIS PARAGRAPH PROVIDE ANY DONATION OR GIFT TO THE SCHOOL DISTRICT EXCEPT AS
15 PROVIDED IN THE VOLUNTARY PARTNERSHIP AGREEMENT PURSUANT TO THIS PARAGRAPH.

16 (c) A COMMUNITY FACILITIES DISTRICT ESTABLISHED PURSUANT TO TITLE 48,
17 CHAPTER 4, ARTICLE 6 TO BE USED FOR REIMBURSEMENT OF FINANCING THE
18 CONSTRUCTION OF A SCHOOL PURSUANT TO THIS PARAGRAPH.

19 (d) FOR A SCHOOL DISTRICT TO ENTER INTO AN AGREEMENT PURSUANT TO THIS
20 PARAGRAPH WITH ANY PARTY OTHER THAN A MASTER PLANNED COMMUNITY PARTY. ANY
21 LAND AREA CONSISTING OF AT LEAST THREE HUNDRED TWENTY ACRES THAT IS THE
22 SUBJECT OF A DEVELOPMENT AGREEMENT WITH A COUNTY, CITY OR TOWN ENTERED INTO
23 PURSUANT TO SECTION 9-500.05 OR 11-1101 SHALL BE DEEMED TO BE A MASTER
24 PLANNED COMMUNITY. FOR THE PURPOSES OF THIS SUBDIVISION, "MASTER PLANNED
25 COMMUNITY" MEANS A LAND AREA CONSISTING OF AT LEAST THREE HUNDRED TWENTY
26 ACRES, WHICH MAY BE NONCONTIGUOUS, THAT IS THE SUBJECT OF A ZONING ORDINANCE
27 APPROVED BY THE GOVERNING BODY OF THE COUNTY, CITY OR TOWN IN WHICH THE LAND
28 IS LOCATED THAT ESTABLISHES THE USE OF THE LAND AREA AS A PLANNED AREA
29 DEVELOPMENT OR DISTRICT, PLANNED COMMUNITY DEVELOPMENT OR DISTRICT, PLANNED
30 UNIT DEVELOPMENT OR DISTRICT OR OTHER LAND USE CATEGORY OR DISTRICT THAT IS
31 RECOGNIZED IN THE LOCAL ORDINANCE OF SUCH COUNTY, CITY OR TOWN AND THAT
32 SPECIFIES THE USE OF SUCH LAND IS FOR A MASTER PLANNED DEVELOPMENT.

33 Sec. 2. Section 15-2011, Arizona Revised Statutes, is amended to read:

34 15-2011. Minimum school facility adequacy requirements;

35 definition

36 A. The school facilities board shall, as determined and prescribed in
37 this chapter, provide funding to school districts for new construction as the
38 projected number of pupils in the district will fill the existing school
39 facilities and require more pupil space.

40 B. School buildings in a school district are adequate if all of the
41 following requirements are met:

42 1. The buildings contain sufficient and appropriate space and
43 equipment that comply with the minimum school facility adequacy guidelines
44 established pursuant to subsection F of this section. The state shall not
45 fund facilities for elective courses that require the school district

1 facilities to exceed minimum school facility adequacy requirements. The
2 school facilities board shall determine whether a school building meets the
3 requirements of this paragraph by analyzing the total square footage that is
4 available for each pupil in conjunction with the need for specialized spaces
5 and equipment.

6 2. The buildings are in compliance with federal, state and local
7 building and fire codes and laws that are applicable to the particular
8 building. An existing school building is not required to comply with current
9 requirements for new buildings unless this compliance is specifically
10 mandated by law or by the building or fire code of the jurisdiction where the
11 building is located.

12 3. The building systems, including roofs, plumbing, telephone systems,
13 electrical systems, heating systems and cooling systems, are in working order
14 and are capable of being properly maintained.

15 4. The buildings are structurally sound.

16 C. The standards that shall be used by the school facilities board to
17 determine whether a school building meets the minimum adequate gross square
18 footage requirements are as follows:

19 1. For a school district that provides instruction to pupils in
20 programs for preschool children with disabilities, kindergarten programs and
21 grades one through six, eighty square feet per pupil in programs for
22 preschool children with disabilities, kindergarten programs and grades one
23 through six.

24 2. For a school district that provides instruction to up to eight
25 hundred pupils in grades seven and eight, eighty-four square feet per pupil
26 in grades seven and eight.

27 3. For a school district that provides instruction to more than eight
28 hundred pupils in grades seven and eight, eighty square feet per pupil in
29 grades seven and eight or sixty-seven thousand two hundred square feet,
30 whichever is more.

31 4. For a school district that provides instruction to up to four
32 hundred pupils in grades nine through twelve, one hundred twenty-five square
33 feet per pupil in grades nine through twelve.

34 5. For a school district that provides instruction to more than four
35 hundred and up to one thousand pupils in grades nine through twelve, one
36 hundred twenty square feet per pupil in grades nine through twelve or fifty
37 thousand square feet, whichever is more.

38 6. For a school district that provides instruction to more than one
39 thousand and up to one thousand eight hundred pupils in grades nine through
40 twelve, one hundred twelve square feet per pupil in grades nine through
41 twelve or one hundred twenty thousand square feet, whichever is more.

42 7. For a school district that provides instruction to more than one
43 thousand eight hundred pupils in grades nine through twelve, ninety-four
44 square feet per pupil in grades nine through twelve or two hundred one
45 thousand six hundred square feet, whichever is more.

1 D. The school facilities board may modify the square footage
2 requirements prescribed in subsection C of this section or modify the amount
3 of monies awarded to cure the square footage deficiency pursuant to this
4 section for particular school districts based on extraordinary circumstances
5 for any of the following considerations:
6 1. The number of pupils served by the school district.
7 2. Geographic factors.
8 3. Grade configurations other than those prescribed in subsection C of
9 this section.
10 E. In measuring the square footage per pupil requirements of
11 subsection C of this section, the school facilities board shall:
12 1. Use the most recent one hundredth day average daily membership.
13 2. For each school, use the lesser of either:
14 (a) Total gross square footage.
15 (b) Student capacity multiplied by the appropriate square footage per
16 pupil prescribed by subsection C of this section.
17 3. Consider the total space available in all schools in use in the
18 school district, except that the school facilities board shall allow an
19 exclusion of the square footage for certain schools and the pupils within the
20 schools' boundaries if the school district demonstrates to the board's
21 satisfaction unusual or excessive busing of pupils or unusual attendance
22 boundary changes between schools.
23 4. Compute the gross square footage of all buildings by measuring from
24 exterior wall to exterior wall. Square footage used solely for district
25 administration, storage of vehicles and other nonacademic purposes shall be
26 excluded from the gross square footage.
27 5. Include all portable and modular buildings.
28 6. Include in the gross square footage new construction funded wholly
29 or partially by the school facilities board based on the square footage
30 funded by the school facilities board. If the new construction is to exceed
31 the square footage funded by the school facilities board, then the excess
32 square footage shall not be included in the gross square footage if any of
33 the following apply:
34 (a) The excess square footage was constructed before July 1, 2002 or
35 funded by a class B bond, impact aid revenue bond or capital outlay override
36 approved by the voters after August 1, 1998 and before June 30, 2002 or
37 funded from unrestricted capital outlay expended before June 30, 2002.
38 (b) The excess square footage of new school facilities does not exceed
39 twenty-five per cent of the minimum square footage requirements pursuant to
40 subsection C of this section.
41 (c) The excess square footage of expansions to school facilities does
42 not exceed twenty-five per cent of the minimum square footage requirements
43 pursuant to subsection C of this section.
44 7. Require that excess square footage that is constructed after July
45 1, 2002 and that is not excluded pursuant to paragraph 6 of this subsection

1 meets the minimum school facility adequacy guidelines in order to be eligible
2 for building renewal monies as computed in section 15-2031.

3 8. EXCLUDE SQUARE FOOTAGE BUILT UNDER A DEVELOPER AGREEMENT ACCORDING
4 TO SECTION 15-342, PARAGRAPH 33 UNTIL THE SCHOOL FACILITIES BOARD PROVIDES
5 FUNDING FOR THE SQUARE FOOTAGE UNDER SECTION 15-2041, SUBSECTION O.

6 F. The school facilities board shall adopt rules establishing minimum
7 school facility adequacy guidelines. The executive director of the school
8 facilities board shall report monthly to the joint committee on capital
9 review on the progress of the development of the proposed rules establishing
10 the guidelines. The joint committee on capital review shall review the
11 proposed guidelines before the school facilities board adopts the rules to
12 establish the minimum school facility adequacy guidelines. The guidelines
13 shall provide the minimum quality and quantity of school buildings and
14 facilities and equipment necessary and appropriate to enable pupils to
15 achieve the academic standards pursuant to section 15-203, subsection A,
16 paragraphs 12 and 13 and sections 15-701 and 15-701.01. At a minimum, the
17 school facilities board shall address all of the following in developing
18 these guidelines:

- 19 1. School sites.
- 20 2. Classrooms.
- 21 3. Libraries and media centers, or both.
- 22 4. Cafeterias.
- 23 5. Auditoriums, multipurpose rooms or other multiuse space.
- 24 6. Technology.
- 25 7. Transportation.
- 26 8. Facilities for science, arts and physical education.
- 27 9. Other facilities and equipment that are necessary and appropriate
28 to achieve the academic standards prescribed pursuant to section 15-203,
29 subsection A, paragraphs 12 and 13 and sections 15-701 and 15-701.01.
- 30 10. Appropriate combinations of facilities or uses listed in this
31 section.

32 G. The board shall consider the facilities and equipment of the
33 schools with the highest academic productivity scores, as prescribed in
34 section 15-2002, subsection A, paragraph 9, subdivision (d), and the highest
35 parent quality ratings in the establishment of the guidelines.

36 H. The school facilities board may consider appropriate combinations
37 of facilities or uses in making assessments of and curing existing
38 deficiencies pursuant to section 15-2002, subsection A, paragraph 1 and in
39 certifying plans for new school facilities pursuant to section 15-2002,
40 subsection A, paragraph 5.

41 I. For the purposes of this section, "student capacity" means the
42 capacity adjusted to include any additions to or deletions of space,
43 including modular or portable buildings at the school. The school facilities
44 board shall determine the student capacity for each school in conjunction
45 with each school district, recognizing each school's allocation of space as

1 of July 1, 1998, to achieve the academic standards prescribed pursuant to
2 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and
3 15-701.01.

4 Sec. 3. Section 15-2041, Arizona Revised Statutes, as amended by Laws
5 2005, chapter 272, section 4 and chapter 293, section 1, is amended to read:
6 15-2041. New school facilities fund; capital plan; report

7 A. A new school facilities fund is established consisting of monies
8 appropriated by the legislature and monies credited to the fund pursuant to
9 section 37-221 ~~or 42-5030.01~~. The school facilities board shall administer
10 the fund and distribute monies, as a continuing appropriation, to school
11 districts for the purpose of constructing new school facilities. On June 30
12 of each fiscal year, any unobligated contract monies in the new school
13 facilities fund shall be transferred to the capital reserve fund established
14 by section 15-2003.

15 B. The school facilities board shall prescribe a uniform format for
16 use by the school district governing board in developing and annually
17 updating a capital plan that consists of each of the following:

18 1. Enrollment projections for the next five years for elementary
19 schools and eight years for middle and high schools, including a description
20 of the methods used to make the projections.

21 2. A description of new schools or additions to existing schools
22 needed to meet the building adequacy standards prescribed in section 15-2011.
23 The description shall include:

24 (a) The grade levels and the total number of pupils that the school or
25 addition is intended to serve.

26 (b) The year in which it is necessary for the school or addition to
27 begin operations.

28 (c) A timeline that shows the planning and construction process for
29 the school or addition.

30 3. Long-term projections of the need for land for new schools.

31 4. Any other necessary information required by the school facilities
32 board to evaluate a school district's capital plan.

33 5. If a school district pays tuition for all or a portion of the
34 school district's high school pupils to another school district, the capital
35 plan shall indicate the number of pupils for which the district pays tuition
36 to another district. If a school district accepts pupils from another school
37 district pursuant to section 15-824, subsection A, the school district shall
38 indicate the projections for this population separately. This paragraph does
39 not apply to a small isolated school district as defined in section 15-901.

40 C. If the capital plan indicates a need for a new school or an
41 addition to an existing school within the next four years or a need for land
42 within the next ten years, the school district shall submit its plan to the
43 school facilities board by September 1 and shall request monies from the new
44 school facilities fund for the new construction or land. Monies provided for

1 land shall be in addition to any monies provided pursuant to subsection D of
2 this section.

3 D. The school facilities board shall distribute monies from the new
4 school facilities fund as follows:

5 1. The school facilities board shall review and evaluate the
6 enrollment projections and either approve the projections as submitted or
7 revise the projections. In determining new construction requirements, the
8 school facilities board shall determine the net new growth of pupils that
9 will require additional square footage that exceeds the building adequacy
10 standards prescribed in section 15-2011. If the projected growth and the
11 existing number of pupils exceeds three hundred fifty pupils who are served
12 in a school district other than the pupil's resident school district, the
13 school facilities board, the receiving school district and the resident
14 school district shall develop a capital facilities plan on how to best serve
15 those pupils. A small isolated school district as defined in section 15-901
16 is not required to develop a capital facilities plan pursuant to this
17 paragraph.

18 2. If the approved projections indicate that additional space will not
19 be needed within the next two years for elementary schools or three years for
20 middle or high schools in order to meet the building adequacy standards
21 prescribed in section 15-2011, the request shall be held for consideration by
22 the school facilities board for possible future funding and the school
23 district shall annually submit an updated plan until the additional space is
24 needed.

25 3. If the approved projections indicate that additional space will be
26 needed within the next two years for elementary schools or three years for
27 middle or high schools in order to meet the building adequacy standards
28 prescribed in section 15-2011, the school facilities board shall provide an
29 amount as follows:

30 (a) Determine the number of pupils requiring additional square footage
31 to meet building adequacy standards. This amount for elementary schools
32 shall not be less than the number of new pupils for whom space will be needed
33 in the next year and shall not exceed the number of new pupils for whom space
34 will be needed in the next five years. This amount for middle and high
35 schools shall not be less than the number of new pupils for whom space will
36 be needed in the next four years and shall not exceed the number of new
37 pupils for whom space will be needed in the next eight years.

38 (b) Multiply the number of pupils determined in subdivision (a) of
39 this paragraph by the square footage per pupil. The square footage per pupil
40 is ninety square feet per pupil for preschool children with disabilities,
41 kindergarten programs and grades one through six, one hundred square feet for
42 grades seven and eight, one hundred thirty-four square feet for a school
43 district that provides instruction in grades nine through twelve for fewer
44 than one thousand eight hundred pupils and one hundred twenty-five square
45 feet for a school district that provides instruction in grades nine through

1 twelve for at least one thousand eight hundred pupils. The total number of
2 pupils in grades nine through twelve in the district shall determine the
3 square footage factor to use for net new pupils. The school facilities board
4 may modify the square footage requirements prescribed in this subdivision for
5 particular schools based on any of the following factors:

6 (i) The number of pupils served or projected to be served by the
7 school district.

8 (ii) Geographic factors.

9 (iii) Grade configurations other than those prescribed in this
10 subdivision.

11 (iv) Compliance with minimum school facility adequacy requirements
12 established pursuant to section 15-2011.

13 (c) Multiply the product obtained in subdivision (b) of this paragraph
14 by the cost per square foot. The cost per square foot is ninety dollars for
15 preschool children with disabilities, kindergarten programs and grades one
16 through six, ninety-five dollars for grades seven and eight and one hundred
17 ten dollars for grades nine through twelve. The cost per square foot shall
18 be adjusted annually for construction market considerations based on an index
19 identified or developed by the joint legislative budget committee as
20 necessary but not less than once each year. The school facilities board
21 shall multiply the cost per square foot by 1.05 for any school district
22 located in a rural area. The school facilities board may modify the base
23 cost per square foot prescribed in this subdivision for particular schools
24 based on geographic conditions or site conditions. For the purposes of this
25 subdivision, "rural area" means an area outside a thirty-five mile radius of
26 a boundary of a municipality with a population of more than fifty thousand
27 persons.

28 (d) Once the school district governing board obtains approval from the
29 school facilities board for new facility construction funds, additional
30 portable or modular square footage created for the express purpose of
31 providing temporary space for pupils until the completion of the new facility
32 shall not be included by the school facilities board for the purpose of new
33 construction funding calculations. On completion of the new facility
34 construction project, if the portable or modular facilities continue in use,
35 the portable or modular facilities shall be included as prescribed by this
36 chapter, unless the school facilities board approves their continued use for
37 the purpose of providing temporary space for pupils until the completion of
38 the next new facility that has been approved for funding from the new school
39 facilities fund.

40 4. For projects approved after December 31, 2001, and notwithstanding
41 paragraph 3 of this subsection, a unified school district that does not have
42 a high school is not eligible to receive high school space as prescribed by
43 section 15-2011 and this section unless the unified district qualifies for
44 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
45 this subsection.

1 E. Monies for architectural and engineering fees, project management
 2 SERVICES and preconstruction services shall be distributed on the completion
 3 of the analysis by the school facilities board of the school district's
 4 request. After receiving monies pursuant to this subsection, the school
 5 district shall submit a design development plan for the school or addition to
 6 the school facilities board before any monies for construction are
 7 distributed. If the school district's request meets the building adequacy
 8 standards, the school facilities board may review and comment on the
 9 district's plan with respect to the efficiency and effectiveness of the plan
 10 in meeting state square footage and facility standards before distributing
 11 the remainder of the monies. If the school facilities board modifies the
 12 cost per square foot as prescribed in subsection D, paragraph 3, subdivision
 13 (c), the school facilities board may deduct the cost of project management
 14 services and preconstruction services from the required cost per square
 15 foot. The school facilities board may decline to fund the project if the
 16 square footage is no longer required due to revised enrollment projections.

17 F. The school facilities board shall distribute the monies needed for
 18 land for new schools so that land may be purchased at a price that is less
 19 than or equal to fair market value and in advance of the construction of the
 20 new school. If necessary, the school facilities board may distribute monies
 21 for land to be leased for new schools if the duration of the lease exceeds
 22 the life expectancy of the school facility by at least fifty per cent. The
 23 proceeds derived through the sale of any land purchased or partially
 24 purchased with monies provided by the school facilities board shall be
 25 returned to the state fund from which it was appropriated and to any other
 26 participating entity on a proportional basis. EXCEPT AS PROVIDED IN SECTION
 27 15-342, PARAGRAPH 33, if a school district acquires real property by donation
 28 at an appropriate school site approved by the school facilities board, the
 29 school facilities board shall distribute an amount equal to twenty per cent
 30 of the fair market value of the donated real property that can be used for
 31 academic purposes. The school district shall place the monies in the
 32 unrestricted capital outlay fund and increase the unrestricted capital outlay
 33 BUDGET limit by the amount of monies placed in the fund. Monies distributed
 34 under this subsection shall be distributed from the new school facilities
 35 fund. A SCHOOL DISTRICT THAT RECEIVES MONIES FROM THE NEW SCHOOL FACILITIES
 36 FUND FOR A DONATION OF LAND PURSUANT TO SECTION 15-342, PARAGRAPH 33 SHALL
 37 NOT RECEIVE MONIES FROM THE SCHOOL FACILITIES BOARD FOR THE DONATION OF REAL
 38 PROPERTY PURSUANT TO THIS SUBSECTION. A school district shall not pay a
 39 consultant a percentage of the value of any of the following:

- 40 1. Donations of real property, services or cash from any of the
- 41 following:
- 42 (a) Entities that have offered to provide construction services to the
- 43 school district.
- 44 (b) Entities that have been contracted to provide construction
- 45 services to the school district.

- 1 (c) Entities that build residential units in that school district.
2 (d) Entities that develop land for residential use in that school
3 district.
4 2. Monies received from the school facilities board on behalf of the
5 school district.
6 3. Monies paid by the school facilities board on behalf of the school
7 district.
8 G. In addition to distributions to school districts based on pupil
9 growth projections, a school district may submit an application to the school
10 facilities board for monies from the new school facilities fund if one or
11 more school buildings have outlived their useful life. If the school
12 facilities board determines that the school district needs to build a new
13 school building for these reasons, the school facilities board shall remove
14 the square footage computations that represent the building from the
15 computation of the school district's total square footage for purposes of
16 this section. If the square footage recomputation reflects that the school
17 district no longer meets building adequacy standards, the school district
18 qualifies for a distribution of monies from the new school construction
19 formula in an amount determined pursuant to subsection D of this
20 section. Buildings removed from a school district's total square footage
21 pursuant to this subsection shall not be included in the computation of
22 monies from the building renewal fund established by section 15-2031. The
23 school facilities board may modify the base cost per square foot prescribed
24 in this subsection under extraordinary circumstances for geographic factors
25 or site conditions.
26 H. School districts that receive monies from the new school facilities
27 fund shall establish a district new school facilities fund and shall use the
28 monies in the district new school facilities fund only for the purposes
29 prescribed in this section. By October 15 of each year, each school district
30 shall report to the school facilities board the projects funded at each
31 school in the previous fiscal year with monies from the district new school
32 facilities fund and shall provide an accounting of the monies remaining in
33 the new school facilities fund at the end of the previous fiscal year.
34 I. If a school district has surplus monies received from the new
35 school facilities fund, the school district may use the surplus monies only
36 for capital purposes for the project for up to one year after completion of
37 the project. If the school district possesses surplus monies from the new
38 school construction project that have not been expended within one year of
39 the completion of the project, the school district shall return the surplus
40 monies to the school facilities board for deposit in the new school
41 facilities fund.
42 J. The board's consideration of any application filed after July 1,
43 2001 or after December 31 of the year in which the property becomes territory
44 in the vicinity of a military airport or ancillary military facility as
45 defined in section 28-8461 for monies to fund the construction of new school

1 facilities proposed to be located in territory in the vicinity of a military
2 airport or ancillary military facility shall include, if after notice is
3 transmitted to the military airport pursuant to section 15-2002 and before
4 the public hearing the military airport provides comments and analysis
5 concerning compatibility of the proposed school facilities with the high
6 noise or accident potential generated by military airport or ancillary
7 military facility operations that may have an adverse effect on public health
8 and safety, consideration and analysis of the comments and analysis provided
9 by the military airport before making a final determination.

10 K. If a school district uses its own project manager for new school
11 construction, the members of the school district governing board and the
12 project manager shall sign an affidavit stating that the members and the
13 project manager understand and will follow the minimum adequacy requirements
14 prescribed in section 15-2011.

15 L. The school facilities board shall establish a separate account in
16 the new school facilities fund designated as the litigation account to pay
17 attorney fees, expert witness fees and other costs associated with litigation
18 in which the school facilities board pursues the recovery of damages for
19 deficiencies correction that resulted from alleged construction defects or
20 design defects that the school facilities board believes caused or
21 contributed to a failure of the school building to conform to the building
22 adequacy requirements prescribed in section 15-2011. Attorney fees paid
23 pursuant to this subsection shall not exceed the market rate for similar
24 types of litigation. Monies recovered as damages pursuant to this subsection
25 shall be used to offset debt service on the correction of existing
26 deficiencies as prescribed by section 15-2021. The joint committee on
27 capital review shall conduct an annual review of the litigation account,
28 including the costs associated with current and potential litigation.

29 M. Until the state board of education and the auditor general adopt
30 rules pursuant to section 15-213, subsection I, the school facilities board
31 may allow school districts to contract for construction services and
32 materials through the qualified select bidders list method of project
33 delivery for new school facilities pursuant to this section.

34 N. The school facilities board shall submit a report on project
35 management services and preconstruction services to the governor, the
36 president of the senate and the speaker of the house of representatives by
37 December 31 of each year. The report shall compare projects that use project
38 management and preconstruction services with those that do not. The report
39 shall address cost, schedule and other measurable components of a
40 construction project. School districts, construction manager at risk firms
41 and project management firms that participate in a school facilities board
42 funded project shall provide the information required by the school
43 facilities board in relation to this report.

44 O. IF A SCHOOL DISTRICT CONSTRUCTS NEW SQUARE FOOTAGE ACCORDING TO
45 SECTION 15-342, PARAGRAPH 33, THE SCHOOL FACILITIES BOARD SHALL REVIEW DESIGN

1 PLANS AND LOCATION OF ANY NEW SCHOOL FACILITY SUBMITTED BY SCHOOL DISTRICTS
2 AND ANOTHER PARTY TO DETERMINE WHETHER THE DESIGN PLANS COMPLY WITH THE
3 ADEQUACY STANDARDS PRESCRIBED IN SECTION 15-2011 AND THE SQUARE FOOTAGE PER
4 PUPIL REQUIREMENTS PURSUANT TO SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF
5 THIS SECTION. WHEN THE SCHOOL DISTRICT QUALIFIES FOR A DISTRIBUTION OF
6 MONIES FROM THE NEW SCHOOL FACILITIES FUND ACCORDING TO THIS SECTION, THE
7 SCHOOL FACILITIES BOARD SHALL DISTRIBUTE MONIES TO THE SCHOOL DISTRICT FROM
8 THE NEW SCHOOL FACILITIES FUND FOR THE SQUARE FOOTAGE CONSTRUCTED UNDER
9 SECTION 15-342, PARAGRAPH 33 AT THE SAME COST PER SQUARE FOOT ESTABLISHED BY
10 THIS SECTION THAT WAS IN EFFECT AT THE TIME OF THE BEGINNING OF THE
11 CONSTRUCTION OF THE SCHOOL FACILITY. BEFORE THE SCHOOL FACILITIES BOARD
12 DISTRIBUTES ANY MONIES PURSUANT TO THIS SUBSECTION, THE SCHOOL DISTRICT SHALL
13 DEMONSTRATE TO THE SCHOOL FACILITIES BOARD THAT THE FACILITIES TO BE FUNDED
14 PURSUANT TO THIS SECTION MEET THE MINIMUM ADEQUACY STANDARDS PRESCRIBED IN
15 SECTION 15-2011. THE AGREEMENT ENTERED INTO PURSUANT TO SECTION 15-342,
16 PARAGRAPH 33 SHALL SET FORTH THE PROCEDURES FOR THE ALLOCATION OF THESE FUNDS
17 TO THE PARTIES THAT PARTICIPATED IN THE AGREEMENT.

18 Sec. 4. Repeal

19 Section 15-2041, Arizona Revised Statutes, as amended by Laws 2005,
20 chapter 287, section 3, is repealed.

APPROVED BY THE GOVERNOR JUNE 28, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 28, 2006.